

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA :

-v.- : S1 13 Cr. 242 (SAS)

JONATHAN SAMBULA, :
a/k/a "Bula," :

Defendant. :
:

----- X

**THE GOVERNMENT'S PROPOSED
EXAMINATION OF PROSPECTIVE JURORS**

PREET BHARARA
United States Attorney
Southern District of New York
Attorney for the United States of America

Joshua A. Naftalis
Jared Lenow
Assistant United States Attorneys

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA :

-v.- : S1 13 Cr. 242 (SAS)

JONATHAN SAMBULA, :
a/k/a "Bula," :

Defendant. :

:
----- X

**THE GOVERNMENT'S PROPOSED
EXAMINATION OF PROSPECTIVE JURORS**

The Government respectfully requests, pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, that the Court include the following questions in its examination of prospective jurors. The Court is requested to pursue more detailed questioning at the sidebar if a prospective juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the prospective juror in favor of or against either the Government or the defendant.

The Charges

1. This is a criminal case. The defendant is JONATHAN SAMBULA. The defendant has been charged in an Indictment with violating certain federal laws. The Indictment was filed by a grand jury sitting in this district, and it contains three counts.

2. The Indictment is not evidence itself. It simply contains the charges that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I would like to summarize the charges in this case in order to determine whether there is anything

about the nature of this case that may make it difficult or inappropriate for any of you to serve on the jury.

3. Count One charges the defendant with a conspiracy to distribute and possess with the intent to distribute crack cocaine and heroin from at least in or about 2008 up to and including April 2, 2013.

4. Count Two charges the defendant with the unlawful possession of a firearm in connection with the crack cocaine and heroin trafficking offense charged in Count One from at least in or about December 2008 up to and including April 2, 2013.

5. Count Three charges the defendant with unlawful possession of a firearm by a convicted felon on or about December 23, 2012.

6. Do any of you believe that you have personal knowledge of the events charged in the Indictment as I have described them?

Knowledge of the Trial Participants

7. As I already mentioned, the defendant in this case is JONATHAN SAMBULA. Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relative, friend, or associate of the defendant?

8. To your knowledge, do any of your relatives, friends, associates, or employers know the defendant?

9. The defendant is represented by Stewart L. Orden, whose office is located at 2 Westchester Park Drive, Suite 418, White Plains, New York 10604. [Please ask counsel to stand when his name is called.] Do any of you know Mr. Orden? Have any of you had dealings, either directly or indirectly, with Mr. Orden?

10. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, who is Preet Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Joshua A. Naftalis and Jared Lenow. They will be assisted by a paralegal in that office, **[Government to provide name prior to trial]**. [Please ask counsel and the paralegal to stand when their names are called.] Do any of you know Mr. Bharara, Mr. Naftalis, Mr. Lenow, or **[Paralegal]**? Have you had any dealings, either directly or indirectly, with any of these individuals?

11. At various points during the trial, the Government attorneys will be assisted by Special Agents Rodrigo Riveros and Brandon Waller of the Federal Bureau of Investigation (“FBI”), certain FBI agents, agents from the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), and officers from the New York City Police Department (“NYPD”). Do any of you know Special Agents Riveras or Waller? Have you had any dealings, either directly or indirectly, with the FBI, ATF, or NYPD?

Relationship with Government

12. Do any of you know, or have any association — professional, business, or social, direct or indirect — with any member of the staff of the United States Attorney’s Office for the Southern District of New York, the FBI, ATF, or NYPD? Is any member of your family employed by any law enforcement agency, whether federal, state, or local?

13. Do any of you have any bias, prejudice, or other feelings for or against the United States Attorney’s Office, the FBI, ATF, NYPD, or any other law enforcement agency?

14. Have you, or has any member of your family, either as an individual, or in the course of business, ever been a party to any legal action or dispute with the United States, or

with any of the officers, departments, agencies, or employees of the United States, including the Internal Revenue Service? Have any of you had any legal, financial, or other interest in any such legal action or dispute, or its outcome? In particular, have you, or has any member of your family, ever had a dispute concerning payment of money owed to you by the Government?

15. Have you or any member of your family or friend or relative ever been a party to a legal dispute involving law enforcement officials? [If yes: What was the nature of the dispute? Did the dispute leave you with any favorable or unfavorable opinions, feelings biases or prejudice toward law enforcement officials? Did you retain the services of a lawyer for this legal dispute? If yes: Did you form any opinion favorable or un-favorable about lawyers?

16. Have you, or any family member, either as an individual or in the course of business, ever been subject to an investigation by the FBI, ATF, NYPD, or any other law enforcement agency, or otherwise been a party to any dispute or legal action involving the FBI, ATF, NYPD, or any other law enforcement agency?

17. Have you or any member of your family or relatives or friends had contact with a criminal defense attorney? [If yes: What were the circumstances of that contact? Did the contact leave you with any favorable or un-favorable opinions about criminal defense attorneys? Is there anything at all about criminal defense attorneys that would prevent you from rendering a fair and impartial verdict in this case?]

Relevant Names and Locations

18. I will now read a list of names of individuals who may be mentioned during the trial, or who may be witnesses in this case:

[The Government will provide this information prior to jury selection.]

Do any of you know any of these people? Have you had any dealings, either directly or indirectly, with any of these individuals?

19. I will now let you know about some locations that may be mentioned or shown during the trial:

[The Government will provide this information prior to jury selection.]

Are any of you familiar with these locations?

Ability to Render Fair Verdict / Nature of the Charges

20. As I explained earlier, the defendant in this case is charged with agreeing to commit a crime, which, as I will explain in more detail later, is itself a crime. Does any juror feel that the law should not separately prohibit agreements to commit crimes, as opposed to the commission of the crimes themselves, even if the underlying crime is not successfully completed?

21. The object of that conspiracy charge, in this case, pertains to violations of the federal narcotics laws. Do any of you have an opinion about the enforcement of the federal narcotics laws which might prevent you from being fair and impartial in this case?

22. As you can tell, during the trial, you will hear evidence concerning drug trafficking and firearms. Does the fact that the case involves such a charge make it difficult for any of you to render a fair verdict? Do any of you feel that you could not decide fairly and impartially a case involving such a charge?

23. Has any juror been involved in an offense involving narcotics trafficking or firearms? Has any juror's relative, close friend or associate been involved in an offense involving narcotics trafficking or firearms? Has any juror, or any member of the juror's family, or any juror's close friend, had any experiences of any kind, directly or indirectly, with narcotics trafficking or firearms?

24. Do any of you have any opinion about the enforcement of federal laws generally that might prevent you from being fair and impartial in this case?

25. Do any of you have an opinion about the authority or right of the Government to enforce the narcotics laws or the firearms laws, or conspiracy to do the same, that would affect your ability to be fair and impartial in this type of case?

26. Do any of you feel, for any reason, that you could not view fairly and impartially a case involving narcotics trafficking and firearms?

27. Has any juror formed an opinion that the actions charged in the Indictment, as I have described them to you, should not be crimes?

28. Law Enforcement Personnel. The witnesses in this case may include law enforcement personnel, including special agents of the FBI or ATF, or NYPD officers. Would any juror be more likely to believe or disbelieve a witness merely because the witness is a FBI or ATF agent, NYPD officer, or other law enforcement officer?

29. Search Warrants. Some of the evidence admitted at trial may come from search warrants. I instruct you that such evidence was legally obtained and that certain evidence obtained from search warrants is admissible in this case. Do you have any unfavorable opinion about such evidence or the use of such evidence at trial?

30. Persons Not on Trial. The defendant is charged with acting with others in committing the alleged crime. Those other individuals are not on trial in this case. You may not draw any inference, favorable or unfavorable, towards the Government or the defendant from that fact. You also may not speculate as to the reason why other persons are not on trial at this time. Is there any juror who cannot follow this instruction or who for this reason would have difficulty rendering a fair and impartial verdict?

31. Does anyone have any expectations about the types of evidence that the Government might present in all criminal trials? Would any of you be unable to follow the judge's instructions that the Government is not required to use any particular technique when investigating and presenting evidence of a crime?

Prior Jury Service

32. Have you ever, at any time, served as a member of a grand jury, whether in federal, state, county, or city court? If so, when and where did you serve?

33. Have you ever served as a juror in any court? If so, when, and in what court did you serve, and was it a civil or criminal case? What was the nature of the case? Did the jury reach a verdict?

Experience as a Witness, Defendant, or Crime Victim

34. Have any of you, or any of your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury, or by a Congressional or state legislative committee, licensing authority, or governmental agency? Have you, or any of those close to you, ever been questioned in any matter by a federal, state, or local law enforcement agency?

35. Have you, or have any of your relatives or close friends, ever been a witness or a complainant in any hearing or trial, state or federal? Have you ever been a witness or a complainant in any federal or state prosecution? [If yes: Please state the circumstances of the case. As a result of having been a witness did you form any favorable or unfavorable opinions regarding judges, law enforcement officials, or lawyers?]

36. Are you, or is any member of your family, or any close friend, now under subpoena or, to your knowledge, about to be subpoenaed in any criminal case? [If yes: Do you know what kind of criminal case? Which party served you with the subpoena?]

37. Have you, or have any of your relatives or close friends, ever been the subject of any investigation or accusation by any grand jury, federal or state, or by any Congressional Committee? [If yes: What was the nature of the investigation or the accusation? Has the matter been resolved at this time?]

38. Have you, or has any member of your family, any associate, or close friend, ever been charged with a crime? [If yes: What was the crime? Has the matter been resolved and how? Did the resolution of the matter leave you with any favorable or unfavorable feelings toward law enforcement or lawyers?]

39. Have you, or any of your close friends or relatives, ever been a victim of a crime? [If yes: What was the crime? Has the matter been resolved and how? Did the resolution of the matter leave you with any favorable or unfavorable feelings toward law enforcement or lawyers?]

40. Have you, or any of your close friends or relatives, ever been stopped or questioned by any member of the FBI, ATF, NYPD, or other law enforcement agency? [If yes: Where were the circumstances of each incident? How did you feel you were treated by law enforcement?]

Problems with Perception

41. Do any of you have problems with your hearing or vision that would prevent you from giving full attention to all of the evidence at this trial?

42. Are any of you taking any medication that would prevent you from giving full attention to all of the evidence at this trial?

43. Do any of you have any difficulty reading or understanding English in any degree?

Function of the Court and Jury

44. The function of the jury is to decide questions of fact. You are the sole judge of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finders. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not the defendant is guilty as charged in the Indictment, based on the law as I give it to you. Does any juror have any bias or prejudice that might prevent or hinder him or her from accepting the instructions of law that I will give you in this case?

45. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether the defendant is guilty or innocent?

46. Will each of you accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to the guilt or innocence of the defendant, and that only the evidence produced here in Court may be used by you to determine the guilt or innocence of the defendant?

47. Do any of you have any legal training, or have any relative or close friend who is an attorney? If so, would this prevent you from applying the law in this case as stated by the Court? Will each of you accept my instruction that you are not to discuss this case with

anyone, including attorneys you may know, or read press reports about this case, if any exist, until you are excused as jurors?

48. Is there any juror who feels that even if the evidence established the defendant's guilt beyond a reasonable doubt, he or she might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

49. Does any juror have any religious, philosophical, or other belief that would make him or her unable to render a guilty verdict for reasons unrelated to the law or evidence?

50. In these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, does any juror have the slightest doubt in his or her mind, for any reason whatsoever, that he or she will be able to serve conscientiously, fairly, and impartially in this case, and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it will be explained to you?

Trial Schedule

51. After the jury is selected, we will begin opening statements and then the presentation of evidence. The trial in this case should last approximately two weeks. The Court expects that the court day will last from about today, July 7, 2014 through about Friday, July 25, 2014. Is there any juror for whom the proposed trial schedule presents an insurmountable problem, one that would make it truly impossible for the juror to serve?

Juror's Background

52. The Government respectfully requests that the Court ask each juror to state the following information:

- a. the juror's family status;
- b. the juror's occupation and educational background;
- c. the name and town or county of the juror's employer;
- d. the period of employment with that employer;
- e. the same information concerning other employment within the last five years;
- f. the same information with respect to the juror's spouse, any working children, and any working members of the juror's household;
- g. the area in which the juror resides, how long he or she has lived there, and, the same information (if applicable) for the past five years;
- h. what newspapers and magazines the juror reads and how often;
- i. what television shows the juror watches; and

j. what else the juror does in his or her free time.

Requested Instruction Following Impaneling of the Jury

53. From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your own family, and your friends. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such an attempt to me through my deputy clerk. In this regard, let me explain to you that the attorneys, the defendant, and the witnesses in a case are not supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so.

54. In this regard, do not talk about or read about the facts or circumstances of this case on social networking sites such as Facebook, and you should not “tweet” about your experience here on Twitter. Do not do any research or investigation about the case or anything touching upon the case. Do not go on the Internet to do any searches about this case or these kinds of cases or any of the individuals involved.

55. Finally, keep an open mind throughout the trial and reserve judgment until after all the evidence is in. Until you have heard all the evidence, the closing arguments, and my instructions on the law, you are really not in the position to reach any conclusions in this case. Do keep an open mind.

56. In this connection, when the Court is in recess, please stay either in the jury room or somewhere outside the courtroom. Please do not wait in the courtroom.

Dated: New York, New York
June 20, 2014

Respectfully submitted,

PREET BHARARA
United States Attorney
Southern District of New York

By: /s/
Joshua A. Naftalis
Jared Lenow
Assistant United States Attorneys
(212) 637-2310 / 1068